

Message Text

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SUBJECT: HUMAN RIGHTS: 1976 REPORTING REQUIREMENT FOR YAR

REF: STATE 045319

1. AIRGRAM IN RESPONSE TO REFTEL WILL NOT RPT NOT ARRIVE BY MARCH 15, GIVEN LENGTHY DELAYS IN POUCH SERVICE TO WASHINGTON.

2. IN INTERIM, DEPARTMENT SHOULD REFERTO SANA A-9 OF FEBRUARY 25, 1975, FOR DESCRIPTION OF LAW AND PRACTICE RE HUMAN RIGHTS IN YAR.

3. IT IS DIFFICULT TO UPDATE PARA TWO AIRGRAM. LAW IN YAR IS TRADITIONAL ISLAMIC (SHARIA) CODE. THIS IS A PERSONAL LAW WHICH DOES NOT RPT NOT SPECIFICALLY TREAT RIGHTS, LIMITS ON STATE POWER, PROCEDURES, AND LEGAL GUARANTEES. MODERN LAW, WITH RECORDS, COURTS, PROCEDURES FOR DUE PROCESS, AN INDEPENDENT JUDICIARY, AND BILL OF RIGHTS, DO NOT EXIST ALTHOUGH EFFORTS ARE AT LAST UNDERWAY -- AGAINST CONSIDERABLE UNCLASSIFIED

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CONSERVATIVE OPPOSITION -- TO ESTABLISH THEM IN THIS VERY

UNDERDEVELOPED AND LONG ISOLATED COUNTRY. COMMERCIAL COURTS ARE FOR INSTANCE SCHEDULED FOR INTRODUCTION THIS SUMMER, WITH CIVIL AND CRIMINAL COURTS HOPEFULLY TO FOLLOW NEXT YEAR.

4. NEVERTHELESS, DESPITE ABSENCE OF STRONG INDEPENDENT JUDICIARY, IT IS POSSIBLE TO SAY THAT TORTURE, PROLONGED DETENTION WITHOUT CHARGES, AND CRUEL, INHUMAN OR DEGRADING TREATMENT HAVE, BY GENERAL CONSENT OF INFORMED OBSERVERS HERE, CEASED TO CHARACTERIZE JUDICIAL SYSTEM HERE, ALTHOUGH IN DAYS OF EGYPTIAN OCCUPATION (1963-67) SUCH PRACTICES WERE WIDESPREAD AND WELL-KNOWN. PRESENT YAR PRESIDENT WAS VICTIM, AS WERE MOST OTHER MAJOR LEADERS OF YAR, AND PRISON FRATERNITY AND BELIEFS THAT WERE FORMED IN THOSE HARD DAYS ARE IMPORTANT BARRIERS TO CONSCIOUS REVIVAL OF BRUTALIZING POLICE PRACTICES.

5. ON THE OTHER HAND ARREST WITHOUT CHARGES OR ON BASIS OF SUSPICION OR SIMPLE ALLEGATIONS IS NOT UNCOMMON HERE, AND DETENTION WITHOUT CHARGES ALSO OCCURS. IT IS, HOWEVER, NOT RPT NOT A POLITICAL TOOL OF REPRESSION SO MUCH AS

A FUNCTION OF THE INEFFICIENCY AND ILL DEVELOPED STATE OF LAW AND CRIMINAL ADMINISTRATION. SUCH DETENTION IS GENERALLY BRIEF AND, SINCE YEMENI JAILS FREELY ADMIT VISITORS, FOOD, LETTERS, DETENTION IS LESS OPPRESSIVE THAN MIGHT BE EXPECTED IN THIS POOR COUNTRY.

6. THERE ARE DEEPER REASONS TO FOR SHORTCOMINGS, AS WE SEE THEM, OF GOVERNMENT HERE. CENTRALIZED GOVERNMENT IN YEMEN, DESPITE CONSTITUTIONAL AND REPUBLICAN TRAPPINGS INTRODUCED IN LAST 15 YEARS, IS STILL SANCTIONED IN GENERAL CONCEPTION BY NEED TO PROTECT AND ENFORCE LAWS OF GOD, AS DEFINED IN SHARIA. POWERS OF STATE, THEREFORE, IN RELATION TO RIGHTS OF MEN, ARE SEEN IN VERY DIFFERENT BALANCE THAN IN "POST-ENLIGHTENMENT" MODEL OF LIMITED AND SECULAR GOVERNMENT WHICH WE PURSUE. REFTEL IS THUS PARTICULARLY HARD TO ANSWER FROM COUNTRY LIKE YEMEN, UNCLASSIFIED

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BECAUSE CULTURAL AND INTELLECTUAL FOUNDATIONS OF SOCIETY DIFFER SO RADICALLY FROM OURS. FORCING YEMENI SOCIETY INTO OUR LEGAL MOLDS IS AT BEST ACADEMIC EXERCISE, AT WORST EXERCISE IN MORAL ARROGANCE. IN NEITHER CASE DOES IT YIELD CONCLUSIONS THAT ARE, IN OUR VIEW, PARTICULARLY USEFUL IN FOREIGN RELATIONS. SCOTES

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